

NEW MEXICO OIL CONSERVATION COMMISSION

COMMISSION HEARING

SANTA FE, NEW MEXICO

Hearing Date MAY 19, 1988 Time: 9:00 A.M.

NAME	REPRESENTING	LOCATION
William F. Jay	Denson - Martin - Green	Santa Fe
Frank Doufoss	Mallon Oil Co.	Austin, Tex
Bob Helmer	Bryson Co.	Santa Fe
W. Kelso	Kelso Valley Oil Company	Santa Fe
Richard Breaker	PARAZO	Hobbs
Wayne Price	"	"
Andrew Lopez	Hinkle Law Firm	Santa Fe
KENT LUND	Amoco Prod Co	Denver, Co
W. Penny Pearce	Montgomery & Andrews	Santa Fe
Mike Stallsworth	MOBIL	Denver
John Faulhaber	Mobil "	"
Craig Eggerman	Mobil	Denver
Beth Miller	Mallon Oil	Austin, Tex
Robert Abbott	Petro-Thermo Corp.	Hobbs, N.M.
David Boyer	Oil Conservation Div.	Santa Fe
Cliff Patton	NMIMT - PRRC	SOCORRO
Bill Hiss	NMIMT PRRC	SOCORRO
DICK ELLIS	B-M-G	DENVER
FRANK E. SYFAN	SUN EIP	DENVER

STATE OF NEW MEXICO
ENERGY, MINERALS, AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION
STATE LAND OFFICE BLDG.
SANTA FE, NEW MEXICO

19 May 1988

COMMISSION HEARING

IN THE MATTER OF:

The hearing called by the Oil Conservation Division on its own motion to promulgate a new Rule 711 to provide for the administrative approval and regulation of commercial surface waste disposal facilities and the requirement of a \$25,000 bond for such facilities.

CASF
9378

BEFORE: William J. Lenny, Chairman
Erling Brostuen, Commissioner
William M. Humphries, Commissioner

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Division: Charles E. Roybal
Attorney at Law
Legal Counsel to the Division
State Land Office Bldg.
Santa Fe, New Mexico 87501

For the Applicant:

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I N D E X

JAMI BAILEY

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MR. LEMAY: We'll now call Case Number 9378.

In the matter of the hearing called by the Oil Conservation Division on its own motion to promulgate a new Rule 711 to provide for the administrative approval and regulation of commercial surface waste disposal facilities and the requirement of a \$25,000 bond for such facilities.

Appearances in Case Number 9378?

MR. ROYBAL: Mr. Chairman, Charles Roybal for the Oil Conservation Division and we'll have one witness.

MR. LEMAY: Are there any other appearances in Case Number 9378?

Yes.

MR. SQUIRES: Larry Squires with Pollution Control, Incorporated, Hobbs, New Mexico.

MR. LEMAY: Fine, Mr. Squires. Do you plan to put on any testimony?

MR. SQUIRES: I would like to make some comments.

MR. LEMAY: Some comments?

MR. SQUIRES: Yes, sir.

1 MR. LEMAY: Fine.

2 Any additional appearances?

3 Yes, sir.

4 MR. BRAKEY: I'm with Parabo,
5 Incorporated, Hobbs, New Mexico, and I'd like to make some
6 additional comments.

7 MR. LEMAY: You're with whom,
8 Mr. Brakey?

9 MR. BRAKEY: Parabo. We're a
10 surface facility in southeast New Mexico owned by UniChem
11 International.

12 MR. LEMAY: Okay. Additional
13 appearances in the case?

14 Okay. We want to swear in the
15 witness. All those giving testimony please raise your right
16 hand.

17
18 (Witness sworn.)

19
20 Fine. You may all be seated.

21 You may proceed.

22
23 JAMI BAILEY,

24 being called as a witness and being duly sworn upon her
25 oath, testified as follows, to-wit:

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DIRECT EXAMINATION

BY MR. ROYBAL:

Q Will you please state your name, your place of employment, and your job classification for the record, please?

A I'm Jami Bailey, a geologist with the Oil Conservation Division.

Q Have you testified before the Commission or its examiners before and had your credentials accepted?

A Yes, I have.

MR. ROYBAL: I tender the witness as an expert witness.

MR. LEMAY; Her qualifications are acceptable.

Q Ms. Bailey, could you briefly state the purpose of the hearing today?

A Section 70-2-12-B15 of the Oil and Gas Act requires the OCD to regulate the disposition of water produced or used in connection with the drilling for or producing of oil or gas, or both, and to direct surface or subsurface disposal of the water in a manner that will afford reasonable protection against contamination of fresh water supplies designated by the State Engineer.

The OCD as a regulatory agency, also re-

1 cognizes its duty to protect, the health, safety, and wel-
2 fare of the public.

3 With these charges in mind, the OCD has
4 prepared a proposed rules regulating commercial surface dis-
5 posal facilities that utilize ponds, pits, or below grade
6 tanks for the disposal of oil field related waste until we
7 have prepared the statewide rules.

8 Q Ms. Bailey, have you prepared an exhibit
9 for this hearing today?

10 A Yes, I have.

11 Q Could you describe that exhibit?

12 A Exhibit One is the draft of the proposed
13 rule, and I'd like to go through that to explain the differ-
14 ent provisions of that rule.

15 MR. ROYBAL: All right. I'll
16 hand out copies of Exhibit Number One in this case to the
17 Commission.

18 Q Would you describe Exhibit One, please?

19 A In the opening paragraph it defines the
20 commercial surface waste disposal facilities as any facility
21 that receives compensation for the collection, disposal,
22 evaporation or storage of produced water, or other related
23 waste in surface pits, ponds, or below grade tanks.

24 This rule would supersede Commission Or-
25 ders R-3221, as amended, and R-7940-A for commercial dispos-

1 al facilities in the state. Those orders would still be in
2 effect for centralized facilities or for individual well-
3 sites.

4 Section A deals with the areas that need
5 to be submitted for a permit application. These -- this
6 type of information would include maps describing the loca-
7 tion of a facility, names and addresses of the landowners of
8 -- within a half mile and the landowner of the facility
9 site. Now, this one-half mile would be contingent upon the
10 pit banks. If a pit is enlarged, then that one-half mile
11 would necessarily be expanded for that small amount.

12 It also -- Number 3 requires a descrip-
13 tion of the facility and references the Division guidelines
14 for permit application design and construction for waste
15 storage and disposal pits.

16 I'd like to emphasize that these guide-
17 lines are that, strictly guidelines. They are not rules in
18 themselves and they are flexible to account for the differ-
19 ent site specific problems that may arise.

20 Number 4 includes a plan for the disposal
21 of solids or liquids in accordance with rules.

22 A contingency plan for the reporting and
23 clean-up of spills or releases would be required, as well as
24 the routine inspection and maintenance plan.

25 A closure plan.

1 Geological/hydrological evidence would
2 need to be submitted to demonstrate that disposal at this
3 facility would not adversely impact fresh water.

4 Proof that the notice requirements of
5 this rule have been met.

6 Certification that the information that
7 has been supplied is true, and other information that is
8 necessary to demonstrate compliance with the rules and regu-
9 lations.

10 I'd like to emphasize that for those fa-
11 cilities that are already permitted and are in operation,
12 most of these requirements have already been met and I would
13 recommend to the Commission that an adequate amount of time
14 be given to those facilities for the submission of the addi-
15 tional paperwork, such as the contingency plan, the mainten-
16 ance plan, and the closure plan.

17 Section B deals with the notification of
18 the owners of the surface lands within a half mile.

19 The Division will be responsible for is-
20 suance of public notice and the Director of the Division
21 will have the discretion of setting any application for
22 hearing if there has been adequate public comment.

23 Section C deals with the bonding, which
24 I'm sure many people are interested in. This \$25,000 bond
25 in the form of a cash or surety bond, it would be contingent

1 upon Part J of this rule.

2 If a bond is already in place for a
3 treating plant and this site is contiguous with that treat-
4 ing plant, then that bond is sufficient.

5 If a bond has already been in place by
6 another Federal or State agency, and that is contingent upon
7 -- it fulfills the requirements of this rule, then that bond
8 also would be adequate.

9 The bond, the status of the bond would
10 need to be reported to the Division annually.

11 The Director of the Division can adminis-
12 tratively issue a permit for such a facility. This removes
13 it from the requirement of an automatic hearing for those
14 facilities in the southeastern part of the state, as 3221,
15 as amended, had required.

16 These permits would be revocable and
17 would be transferrable only upon approval of the Director.

18 Appropriate requirements of Division
19 rules and regulations would be recognized in Section E and
20 in Section F, operators would need to keep and make avail-
21 able for OCD inspection records having to do with the
22 source, location, volume, and type of waste, date of dispos-
23 al, and hauling company that brings these wastes into the
24 facility.

25 The disposal at the facility would occur

1 only when an attendant is on duty or when those loads can be
2 monitored or otherwise isolated for inspection before dis-
3 posal.

4 The facility shall be secured when no at-
5 tendant is present. You'll notice that it does not neces-
6 sarily say that the facility has to be fenced, as long as it
7 is secured either by natural barriers or any other means.

8 It will be the responsibility of the
9 operator of the facility to insure that only vehicles that
10 have valid Form 133 will transport produced water to that
11 facility.

12 Additional requirements or restrictions
13 may be imposed depending on operator's history with the Di-
14 vision or site suitability limitations.

15 If an operator decides to cease opera-
16 tions, the Division must be notified and within six months
17 after notification or cessation of the operations, the oper-
18 ator will be required to clean up and restore the facility
19 site. This clean-up will be on a site specific basis.

20 You will notice that in Section J it says
21 that clean-up may include removal of buildings, tanks, ves-
22 sels, containment and removal of fluids and chemicals,
23 backfilling and grading of pits. These are areas that we
24 will look at and it will have to be on a site specific clo-
25 sure plan. Some facilities may not be able to backfill all

1 their pits. What we're looking at is removal of free fluids
2 and some method whereby free fluids -- it would be -- we
3 would be able to tell if any more fluids had been dumped in-
4 to that location.

5 And down to Section K, the Director may
6 order cessation of that disposal operation and that cessa-
7 tion would remain in effect until withdrawn or until an or-
8 der is issued after notice and hearing when it appears such
9 cessation is necessary to prevent waste, to protect fresh
10 water, to protect public safety, or to assure compliance
11 with Division rules and regulations.

12 Q Thank you, Ms. Bailey. When you were
13 discussing Paragraph J, just to make sure that I've been
14 clear on that, the list of actions that is found in the
15 second half of that paragraph is not mandatory. Is that
16 what you have just testified?

17 A That's right.

18 Q It's only suggested as some things that
19 may be (unclear) in that, is that correct?

20 A That is correct. It will be worked out
21 on a site specific basis.

22 Q All right. And in your discussion of
23 Paragraph B, you stated that the permits are revocable.
24 What's necessary for a revocation of a permit under that
25 paragraph?

1 A Okay.

2 Q What are the steps that must be taken by
3 the Division?

4 A Okay, that would -- it would have to be
5 after notice and hearing for good cause.

6 Q Thank you, Ms. Bailey. Now, could you
7 address the necessity of these new rules and why they are
8 being proposed?

9 A We feel that these rules are necessary
10 and that they would properly regulate these facilities to
11 include only oil and gas waste. We would not allow mixtures
12 of wastes that are regulated by other agencies and that way
13 problems which could arise from these mixtures would be eli-
14 minated.

15 Large volumes that are found at commer-
16 cial disposal facilities necessarily have large volumes of
17 contaminants included in those wastes. These larger volumes
18 of contaminants have a greater potential for fresh water
19 degradation.

20 For this reason and others we feel that
21 these rules are necessary for fresh water protection and for
22 general health and safety.

23 This rule would provide a statewide pol-
24 icy whereby we would not have separate rules governing these
25 -- regulating these facilities for the southeast and the

1 northwest.

2 It would provide consistent rules.

3 Q Thank you, Ms. Bailey.

4 MR. ROYBAL: Mr. Chairman,
5 that's the testimony that was prepared for this matter.

6 We would move the admission of
7 Exhibit One in this case.

8 MR. LEMAY: Without objection
9 it Exhibit One will be admitted into the evidence.

10 Are there additional copies of
11 that draft proposed rule for anyone that --

12 MR. ROYBAL: Yes, Mr. Chairman,
13 there are copies available at the front entrance, I think,
14 for anyone who would want one and the witness would stand
15 ready for cross examination.

16 MR. LEMAY: Are there questions
17 of the witness?

18 MR. PRICE: Yes, I'd like to.

19 MR. LEMAY: Fine.

20

21 QUESTIONS BY MR. WAYNE PRICE:

22 Q My name is Wayne Price with UniChem
23 International.

24 Yes, I'd like to ask you a question con-
25 cerning the surety or cash bond.

1 Will a strong financial statement be con-
2 sidered in this case in lieu of a cash bond or surety bond,
3 and/or will a letter of credit be accepted?

4 A I have talked with the bonding admini-
5 strator person and she has informed me that these are the
6 only forms that we have in effect at this time.

7 Q Okay, thank you.

8 MR. LEMAY: Additional ques-
9 tions of the witness?

10 Mr. Brostuen.

11
12 QUESTIONS BY MR. BROSTUEN:

13 Q Jami, are there any provisions in this
14 rule or in other applicable rules for means of monitoring
15 the integrity of the facility, say in the event of an
16 earthen bottom pool that has sufficient impermeability or if
17 you use a liner is there -- is there a provision that re-
18 quires the monitoring of the integrity of that -- of that
19 liner, as an example?

20 A Yes. We do have provisions for that.
21 The guidelines that are referred to in Section A have design
22 and monitoring requirements included.

23 Also included in this rule is a contin-
24 gency plan for the reporting and clean-up of spills or re-
25 leases. That could also include if a liner tears and there

1 is a subsurface release.

2 Q I understand that section. My question
3 was (unclear) if there's some means of detecting that leak-
4 age prior to it's getting into someone's water supply, for
5 example.

6 A We very commonly require monitor wells
7 surrounding any type of pit and a routine maintenance and
8 inspection of those monitor wells.

9 Q Thank you.

10 MR. LEMAY: Anyone in the aud-
11 ience have any questions concerning Ms. Bailey's testimony?

12

13 QUESTIONS BY MR. HUMPHRIES:

14 Q Under Item G on Page 3, when you put se-
15 cured, do you have some list of indications of secured con-
16 ditions? I notice you made a point that that did not in-
17 clude fencing, but --

18 A It does not necessarily include fencing.
19 For instance, there is a disposal facility in operation in
20 the southeast. The physical topography does not allow ac-
21 cess to that site because of ravines and hills and it's a
22 very remote area.

23 We are also thinking along the lines of
24 if physical topography cannot be worked out, then fencing
25 may be required. This is a very flexible section of the

1 rule.

2 Q So the applicant has to satisfy the Divi-
3 sion staff that --

4 A That's right.

5 Q -- the "secured" is in fact met.

6 A That's right. Also there is, for
7 instance, one facility down there that does not have manning
8 of the facility 24 hours a day but they do have a special
9 card system that allows trucks to dispose of their fluids
10 but it monitors those fluids so that it automatically shuts
11 down if a waste that's not permitted is being pumped into
12 their pipes.

13 Q In the event -- I think it's actually,
14 probably in Section 5, A-5 on Page 1, a contingency plan for
15 reporting and clean-up of spills or releases; and then
16 somewhere else -- oh, okay, it's Number 8, "will not
17 adversely impact fresh water"; in other words, disposal of
18 waste would not adversely affect.

19 In the event of a spill in that
20 contingency plan for a spill or release, are there surface
21 mitigation standards involved in this, too, or only water?

22 A We have not really looked at surface
23 spills, although they can be included. We separated that
24 out in case of subsurface spills, releases, or releases to
25 the air.

1 Q Would that be included in Division dis-
2 cretionary control of a spill? In other words --

3 A That's right.

4 Q -- are you retaining that discretion --

5 A Yes.

6 Q -- within the Division to (unclear) miti-
7 gation?

8 A Yes. If a berm breaks, and there's imme-
9 diate release of the fluids, that's on a different scale
10 than five barrels of water.

11 MR. HUMPHRIES: I have no fur-
12 ther questions.

13 MR. LEMAY: Additional ques-
14 tions of the witness? If not, she may be excused.

15 Any additional witnesses, Mr.
16 Roybal?

17 MR. ROYBAL: No, Mr. Chairman.
18 That's the Division's total case this morning.

19 MR. LEMAY: Mr. Squires, would
20 you care to either make a statement or would you like to be
21 a witness?

22 MR. SQUIRES: I would prefer to
23 be a witness but after Mr. Brakey.

24 MR. LEMAY: Fine. Mr. Brakey?
25 Would you prefer to be a witness?

1 MR. BRAKEY: Mr. Chairman, I
2 would like to issue a statement and just enter it into the
3 record from Mr. R. E. Richards, Attorney at Law, in Hobbs,
4 representing Unichem, International, as well as Parabo.

5 Between Mr. Richards and our
6 President of Unichem, International, we discussed this pro-
7 posed rule and we would like to submit some written comments
8 for the record representing our views on the proposed rule
9 without any testimony at this time.

10 MR. LEMAY: Fine. For those of
11 you that wish to submit additional testimony in the written
12 form, we will keep the record open for ten days so you'll
13 have a chance to analyze these proposed draft rules and sub-
14 mit to us within ten days your version of the rules, that
15 would be acceptable.

16 MR. BRAKEY: Would you like it
17 at this time?

18 MR. LEMAY: That's fine.

19 MR. BRAKEY: Do you want me to
20 go ahead and hand it in?

21 MR. LEMAY; You can.

22 MR. BRAKEY: Do you want me to
23 hand it in now or at the end?

24 MR. LEMAY: Well, you're here.

25 MR. BRAKEY: I'll just go ahead

1 and give it to you now. Okay?

2 MR. LEMAY: Would you mind
3 telling us generally what -- what you propose?

4 MR. BRAKEY: It's just some
5 comments on the closure plan. We've got some questions as
6 far as the -- on the National salt lakes that are surface
7 disposal facilities right now, as to what the Oil Conserva-
8 tion Division is going to include in their closure plans for
9 the closure of the salt lakes that's been there for hundreds
10 of years and will continue to be. If they're just going to
11 talk about the surface tank and piping, if that's what we're
12 talking about, or are we talking about the actual salt lake
13 itself. That's one concern we have there.

14 Otherwise it's pretty well
15 straight with what we're talking about, all the rest of the
16 rules.

17 MR. LEMAY: It's rather
18 lengthy. I'd prefer not to read it into the record, but you
19 say it does deal with with a specific type of, oh, closure,
20 meaning the salt lakes that are out there?

21 MR. BRAKEY: Yes, sir.

22 MR. LEMAY And you're recommen-
23 dation is that these can be used as disposal facilities
24 without modifications, is that --

25 MR. BRAKEY: Well, they're pre-

1 sently being used as surface disposal facilities.

2 MR. LEMAY: Uh-huh.

3 MR. BRAKEY: What we're in
4 question about is in the closure plan what -- what is the
5 Division requesting for the closure plans other than the re-
6 moval of the physical property itself; the tank system, the
7 piping, you know. Are we talking about the salt lake, a
8 closure plan on it? You know, we operate two types of
9 facilities. We have a manmade facility as well as a natural
10 facility and I think there's a little bit of a gray area
11 there, so we have a little concern on the closure plan.

12 And also we have a little bit
13 on grandfathering the existing facilities into the new
14 permit process, (unclear) on that we wanted to introduce
15 into the record.

16 MR. LEMAY: Okay, fine.

17 MR. BRAKEY: And that's
18 basically what the statement deals with.

19 MR. LEMAY: Would you mind
20 answering a question from Commissioner Humphries?

21 MR. BRAKEY: Yes, you bet.

22 MR. HUMPHRIES: In the
23 discretion of the Commission staff, this is a question I
24 asked Ms. Bailey, do you feel like that's adequate in
25 relation to do permitting versus your question about -- I

1 just found that in, I guess, Item Number 6 on page 3, that
2 grandfathers rights. Are you comfortable that the Commis-
3 sion staff applying their discretion will adequately be
4 permitting this procedure?

5 MR. BRAKEY: Yes, sir.

6 MR. HUMPHRIES: So that's not a
7 concern. Your concern basically is will you some day arbi-
8 trarily be required to refill the salt lake for us.

9 MR. BRAKEY: Yes, that's one of
10 the concerns. And also the existing facilities as far as,
11 you know, we're operating under Division orders right now,
12 as far as operating our facility goes, our treating plants
13 and things like that. Are they going to just pretty well
14 come down and we're already inspected on a regular basis
15 as far as the monitor systems on our pits, or are they just
16 going to come in and say, well, you're doing it this way
17 now, this is fine, we're going to go ahead, or is there
18 going to be a real lengthy permitting process for facilities
19 that are already in business?

20 MR. HUMPHRIES: As I recall Ms.
21 Bailey urged the Commission to give adequate time to those
22 operators that are already operating.

23 What do you perceive to be ade-
24 quate time to devise new plans?

25 MR. BRAKEY: Well, if -- if the

1 rules, the proposed rules that they have here today are what
2 we're going to have, we're already doing I'm going to say
3 probably 95 percent of this today. There are a few things
4 that we're going to have to do a little bit different but it
5 won't take long; I'm saying 60 - 90 days, something like
6 that, should be (unclear).

7 MR. PRICE: I'd like to say
8 that I've been working at the EID in permitting brine wells
9 and --

10 MR. LEMAY: Excuse me, would
11 you give your name and --

12 MR. PRICE: Yes. I'm Wayne
13 Price with Unichem International, and I've had experience
14 working with the New Mexico EID in permitting brine wells
15 and 60 to 90 days certainly wouldn't do it, if it's an en-
16 vironmental issue. We're working on two years now, and for
17 permitting work, getting re-permitted, similar situations as
18 we're in now.

19 So I would say the more time
20 the better. We would have -- 60 to 90 would probably do it.
21 I would hope it would do it, but if it's going to be con-
22 straints such as the Environmental Improvement Division puts
23 on, then I would think it would take longer.

24 Thank you.

25 MR. HUMPHRIES: May I ask Jami

--

1 MR. LEMAY: Recall -- recall
2 the witness -- we do this without cross examination --
3 remember, Ms. Bailey, you've been sworn in -- for a question
4 for Commissioner Humphries, if you don't mind.

5 MR. HUMPHRIES: Is that what
6 you perceiving, 60 to 90 days, or was your idea that it was
7 something longer, 6 months, or -- in the present operations?

8 MS. BAILEY: For the present
9 operations I would say 60 to 90 days should be adequate. I
10 cannot foresee that we would have any major changes from
11 what has already been approved by the Division because
12 they've already gone through the hearing process. They've
13 already been permitted and the Examiner or Commission has
14 already approved their permit.

15 I cannot foresee that there
16 would be any major changes involved unless there was some-
17 thing that had been overlooked that we're now aware of as
18 an important environmental change.

19 MR. HUMPHRIES: Since Mr. Bra-
20 key brought it up, I was going to wait to ask Mr. Squires
21 because I was slightly familiar with the way that they oper-
22 ate, what -- what do you perceive as the closing out of a
23 salt lake?

24 MS. BAILEY: I certainly would
25 not recommend trying to fill in a salt lake. I would more

1 likely recommend that access to the site be destroyed so
2 that trucks would not be capable of dumping in an area where
3 they already had been; something like creating road ob-
4 stacles so that access would be severely limited.

5 MR. HUMPHRIES: So can we write
6 some kind of guidelines so they have something to feel a
7 little bit more comfortable about what the Division might
8 consider to be a close out, realizing that we're not going
9 to be in charge of all of the possible litigations?

10 MS. BAILEY: We will deal with
11 each facility on a case by case basis and arrive at deci-
12 sions in that manner. I can't say for every facility they
13 have to, in fact, build pits. I can't say for every facil-
14 ity destroying access to the site would be adequate because
15 there could be other requirements for that site.

16 So we will deal with each one
17 individually and hopefully it won't take a year or two.

18 MR. HUMPHRIES: Thank you. Mr.
19 Brakey, does that address the question?

20 MR. BRAKEY: Yes, that's just
21 one of the concerns we had as far as the extent of a closure
22 plan up front today (not clearly understood) are they going
23 to be included and as far as that is something that we
24 haven't had in the past in our Division order (not clearly
25 understood).

1 MR. LEMAY: Would anyone else
2 wish to ask Mr. Brakey a question or a question in regards
3 to sworn testimony of Mr. Richards?

4 Thank you, Mr. Brakey.

5 MR. BRAKEY: Thank you.

6 MR. LEMAY: Mr. Squires.

7 MR. SQUIRES: I would like to
8 make just a few short comments along the same lines, if I
9 may.

10 I would like to go on the re-
11 cord before the Commission as supporting what Mr. Brakey
12 and Mr. Price have submitted and also Mr. Richards' state-
13 ment.

14 We, as operators of Laguna Ga-
15 tuna, Pollution Control, Incorporated, we've been operating
16 in a surface disposal facility now since 1969, and we whole-
17 heartedly support what they have said in regards to their
18 statement.

19 I would also like to say to the
20 Commission that we feel that it is a good idea to tighten up
21 our surface disposal facilities. We see no problems in this
22 proposed rule that we cannot live with; however, we do feel
23 like that Paragrah A, as far as the "construction, recon-
24 struction or enlargement of a commercial surface [waste] fa-
25 cility" needs to be clarified. In other words, we have on-

1 going construction and maintenance all the time and we feel
2 it would be completely and totally unnecessary to -- to get
3 a new permit for each additional pit that we may see that we
4 might need in the adjacent or contiguous property as our
5 business increases because of larger volumes of water that
6 we would happen to receive, and we feel that -- that a new
7 hearing and a new permitting process along these lines is
8 totally unnecessary.

9 Our facility was originally
10 permitted in 1969 for volumes up to 30,000 barrels of brine
11 water on a daily basis. We have not approached that volume
12 as to yet; however, we anticipated -- we anticipate at this
13 time through some pipeline facilities, to increase our vol-
14 ume considerably over what it has been and we do not feel it
15 is necessary for us to have a complete new hearing; that the
16 Division man, Mr. Sexton, in our area is familiar with our
17 facility and we don't feel that -- we feel like it would be
18 unwarranted to have to have a new hearing every time we had
19 a new pit, and -- or any maintenance on some older pits.

20 And we feel that some grand-
21 fathering permitting should be allowed within the proposed
22 rule, and the language be more clear on these points.

23 The closure plan certainly we
24 -- we see no problem with any other -- we basically see no
25 problems with it at all except along these lines that I've

1 discussed.

2 MR. LEMAY: Here again, if I
3 could call upon Ms. Bailey to maybe respond to clarification
4 as to the construction, reconstruction, enlargement of the
5 surface disposal waste facility which Mr. Squires has had
6 some concern about, your intention in that regard.

7 MS. BAILEY: Okay. First I
8 have a question.

9 MR. SQUIRES: Yes.

10 MS. BAILEY: If you apply for a
11 new pit as the process is now, do you have to come to hear-
12 ing for a pit to be approved?

13 MR. SQUIRES: No, we do not.

14 MS. BAILEY: Okay, so you have
15 a permit or you have permission to construct and enlarge
16 your facility to any size that you feel is necessary right
17 now?

18 MR. SQUIRES: Yes.

19 MS. BAILEY: Okay. I'd like to
20 emphasize that we see these permits that they may be modi-
21 fied, that you would not have to go through the entire pro-
22 cess again without -- with the extent of the hearing, and
23 all that involved.

24 We would simply require notifi-
25 cation of what you would like to do and we can administra-

1 tively approve, or disapprove, any modifications that you
2 would care to make.

3 MR. SQUIRES: But I do under-
4 stand by "administratively" that local people rather than in
5 the -- say the Hobbs District Office -- is that the adminis-
6 trative approval by the people in the --

7 MS. BAILEY: It would come
8 through Santa Fe but there would be a great deal of input
9 from the local division.

10 MR. SQUIRES: I would like to
11 point out one thing to the Commission that they may not be
12 familiar with.

13 Our original permit was gotten
14 in 1969. In 1984, July, we had additional hearing at our
15 own volition to up-date our facility as to our experience,
16 the environmental impact upon the area. Since the land is
17 owned by me personally or my company personally, that we'd
18 put -- that the lake is on, quite a bit of the land is owned
19 by us personally, we're very concerned about the environmen-
20 tal impact of the approximately 15 years of use Laguna
21 Gatuna as a salt water disposal facility, and so we went
22 ahead at that hearing at our own expense, updated our geo-
23 logy, updated our experience with the number of barrels of
24 water that were put into the lake, and at that time it was
25 found by the Commission and by -- by our testimony that

1 there had been no environmental impact from -- to the area
2 through our use of this facility since 1969. And I would
3 like to make special note of that in the record of this, and
4 again, we do not feel that it's necessary that we would have
5 to go through the hearing process again.

6 Thank you.

7 MR. LEMAY: Thank you, Mr.
8 Squires. While you're there, are there additional questions
9 of Mr. Squires?

10 If not, he may be excused.
11 Thank you.

12 MR. SQUIRES: Thank you.

13 MR. ROYBAL: Mr. Chairman.

14 MR. LEMAY: Yes, Mr. Roybal.

15 MR. ROYBAL: In closing for the
16 Division, I'd like to thank the commenters, both written and
17 oral. They have made some very valid comments and we'd like
18 some time for the Division to study especially the written
19 comments and I think that there are some -- that this rule
20 proposed by the Division is basically sound. I think the
21 testimony we've heard from commenters indicates that, but
22 there are some helpful suggestions, I think, that have been
23 made by the commenters both written and orally today, and
24 we'd request that the Division be allowed to study those a
25 bit and perhaps prior to the final rule by the Commission have

1 another draft -- well, the final proposed draft for the Com-
2 mission from the staff.

3 MR. LEMAY; Thank you, Mr.
4 Roybal. We'll certainly solicit staff input and it will be
5 part of the process the Commission will use in considering
6 this final rule.

7 Are there any additional com-
8 ments or statements in Case Number 9378?

9 If not, as I indicated previous-
10 ly, the record will be open for ten days at which time the
11 case will be closed and taken under advisement.

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(Hearing concluded.)

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C E R T I F I C A T E

I, SALLY W. BOYD, C.S.R., DO HEREBY
CERTIFY that the foregoing Transcript of Hearing before the
Oil Conservation Division (Commission) was reported by me;
that the said transcript is a full, true, and correct record
of the hearing, prepared by me to the best of my ability.

Sally W. Boyd CSR